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State v. Meeds Appellant's Brief Dckt. 43962

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43962
Plaintiff-Respondent,)	
)	ADA COUNTY NO. CR 2015-15681
v.)	
)	
ISMIEL EMANNUAL MEEDS,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

After Ismiel Emannual Meeds pled guilty to unlawful possession of a firearm, the district court sentenced him to five years, with two years fixed. Mr. Meeds appeals, contending the district court abused its discretion by imposing an excessive sentence.

Statement of Facts and Course of Proceedings

The State filed a Criminal Complaint alleging Mr. Meeds committed the crime of unlawful possession of a firearm, a felony, in violation of I.C. § 18-3316. (R., pp.4–5.) Mr. Meeds waived a preliminary hearing, and the magistrate bound him over to district

court. (R., pp.11–13.) The State filed an Information charging Mr. Meeds with unlawful possession of a firearm. (R., pp.14–15.)

Pursuant to plea agreement, Mr. Meeds pled guilty as charged. (R., p.16; Tr., p.14, L.15–p.15, L.5.) The State agreed not to file a persistent violator sentencing enhancement in exchange for the plea. (Tr., p.6, Ls.9–11.) The State would recommend a sentence of five years fixed, to be served concurrent with the sentence imposed for a pending probation violation. (Tr., p.6, Ls.7–9, 11–12.) The district court accepted Mr. Meeds’s guilty plea. (Tr., p.16, Ls.1–6.)

At sentencing, the State made a recommendation consistent with the plea agreement. (Tr., p.18, Ls.6–8, p.21, L.19–p.22, L.1.) Mr. Meeds requested a concurrent sentence of five years, with one and one-half years fixed. (Tr., p.24, Ls.22–24.) The district court sentenced Mr. Meeds to five years, with two years fixed, to be served consecutive to the sentence imposed for the probation violation (Tr., p.27, Ls.5–8; R., pp.29–30.) Mr. Meeds filed a timely Notice of Appeal from the district court’s Judgment and Commitment. (R., pp.29–30, 33–34.)

ISSUE

Did the district court abuse its discretion when it imposed a unified sentence of five years, with two years fixed, upon Mr. Meeds, following his guilty plea to unlawful possession of a firearm?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Five Years, With Two Years Fixed, Upon Mr. Meeds, Following His Guilty Plea To Unlawful Possession Of A Firearm

“It is well-established that ‘[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.’” *State v. Pierce*, 150 Idaho 1, 5 (2010) (quoting *State v. Jackson*, 130 Idaho 293, 294 (1997) (alteration in original)). Here, Mr. Meeds’s sentence does not exceed the statutory maximum. See I.C. § 18-3316 (maximum of five years). Accordingly, to show that the sentence imposed was unreasonable, Mr. Meeds “must show that the sentence, in light of the governing criteria, is excessive under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002).

“‘Reasonableness’ of a sentence implies that a term of confinement should be tailored to the purpose for which the sentence is imposed.” *State v. Adamcik*, 152 Idaho 445, 483 (2012) (quoting *State v. Stevens*, 146 Idaho 139, 148 (2008)).

In examining the reasonableness of a sentence, the Court conducts an independent review of the entire record available to the trial court at sentencing, focusing on the objectives of criminal punishment: (1) protection of society; (2) deterrence of the individual and the public; (3) possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

Stevens, 146 Idaho at 148. “A sentence is reasonable if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution.” *State v. Delling*, 152 Idaho 122, 132 (2011). “The decision of whether to impose sentences concurrently or consecutively is within the sound discretion of the trial court.” *State v. Helms*, 130 Idaho 32, 35, 936 P.2d 230, 233 (Ct. App. 1997); see also I.C. § 18-308.

Mr. Meeds asserts that the district court abused its discretion by imposing an excessive sentence under any reasonable view of the facts. Specifically, he contends that the district court should have sentenced him to a lesser fixed term of imprisonment and ordered his sentence to be served concurrently in light of the mitigating circumstances.

Mr. Meeds's substance abuse issues and the impact of his substance abuse on his behavior are strong factors in mitigation. A sentencing court should give "proper consideration of the defendant's [substance abuse] problem, the part it played in causing defendant to commit the crime and the suggested alternatives for treating the problem." *State v. Nice*, 103 Idaho 89, 91 (1982). The impact of substance abuse on the defendant's criminal conduct is "a proper consideration in mitigation of punishment upon sentencing." *State v. Osborn*, 102 Idaho 405, 414 n.5 (1981). Here, twenty-four year old Mr. Meeds began using methamphetamine at age thirteen. (Presentence Investigation Report ("PSI"),¹ pp.15, 136.) He would inject methamphetamine one to two times a day, and he was diagnosed with amphetamine dependence. (PSI, pp.15, 33.) Mr. Meeds has had some periods of success, but he has struggled to stay sober. (PSI, p.15.) Mr. Meeds recognized during the presentence investigation that "a period of incarceration 'may be for the better' because he'll remain clean and have the opportunity to get the help he needs." (PSI, p.14.) For example, he participated in the 90-day treatment program and Alcoholics Anonymous program in jail. (PSI, p.15.) Mr. Meeds maintains, however, that a lesser fixed term of imprisonment would allow

¹ Citations to the PSI refer to the 188-page electronic document containing the confidential exhibits.

him to obtain the necessary treatment in prison while also serving the other objectives of criminal punishment.

Further, Mr. Meeds cooperated during his arrest and has accepted responsibility for the crime. Acceptance of responsibility, remorse, and regret are all factors in favor of mitigation. *State v. Shideler*, 103 Idaho 593, 595 (1982). Here, Mr. Meeds admitted to the arresting officer that he had a firearm and cooperated during his arrest. (PSI, p.4, 54.) He was not using the weapon for violence, but trying to sell it. (PSI, pp.4, 54.) He also was cooperative during the police's investigation. (PSI, p.68.) At sentencing, Mr. Meeds informed the district court:

I want to say, your Honor, I take full responsibility for my actions. Picking up the gun was the worst thing – one of the worst choices I made. I made mistakes on probation. And I understand that and I take full responsibility for them. I was grateful to be put in Drug Court. Get the chance the try Drug Court. Although I messed up early on, but [sic] I did what I knew how to do and I panicked when I messed up and ran. That doesn't make it ok, but I take full responsibility for it.

(Tr., p.25, Ls.6–16.) Mr. Meeds's acceptance of responsibility and cooperation also stand in favor of mitigation.

CONCLUSION

Mr. Meeds respectfully requests that this Court reduce the fixed portion of his sentence as it deems appropriate and order the sentence to be served concurrently. Alternatively, he requests that his case be remanded to the district court for a new sentencing hearing.

DATED this 6th day of June, 2016.

_____/s/
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of June, 2016, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

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_____/s/_____
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JCS/eas